

Ordinance No. 123628


Council Bill No. 117184

AN ORDINANCE relating to Seattle Public Utilities; declaring as surplus certain property rights in Seattle Public Utilities property in the 10300 block of 47th Avenue Southwest in Seattle, Washington; and authorizing the Director of Seattle Public Utilities to execute and convey an easement for such surplus property rights to Gary G. St. Arnaud and Ginger L. Marshall.

Related Legislation File: _____

Date Introduced and Referred: 5.23.11	To: (committee): Seattle Public Utilities + Neighborhoods
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 6.13.11	Date Presented to Mayor: 6.13.11
Date Signed by Mayor: 6/17/11	Date Returned to City Clerk: 6/20/11
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text _____	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: 

Committee Action:

Date	Recommendation	Vote
6/10/11	PASS	1 (MO) - 0 0-0 CH

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
6.13.11	Passed	8-0 (excused: MO)

LAW DEPARTMENT

ORDINANCE

123628

AN ORDINANCE relating to Seattle Public Utilities; declaring as surplus certain property rights in Seattle Public Utilities property in the 10300 block of 47th Avenue Southwest in Seattle, Washington; and authorizing the Director of Seattle Public Utilities to execute and convey an easement for such surplus property rights to Gary G. St. Arnaud and Ginger L. Marshall.

WHEREAS, in 1987, The City of Seattle, through its then Engineering Department, acquired certain property located in the 10300 block of 47th Avenue Southwest in Seattle, Washington (the "Property") that had been previously affected by a landslide; and

WHEREAS, after acquisition, the Engineering Department replaced a damaged sewer line and stabilized the slope; and

WHEREAS, in 1988, the Engineering Department relocated an eighteen-inch diameter storm drain and an eight-inch diameter sanitary sewer line to their present locations in the southeastern portion of the Property; and

WHEREAS, in 2008, the successor to the Engineering Department, Seattle Public Utilities, discovered a deck that encroached into the southeastern portion of the Property; and

WHEREAS, the current owners of the encroaching deck have requested the right to maintain the deck, and Seattle Public Utilities agrees to grant an easement for the deck over 350 square feet (more or less) of property under the jurisdiction of Seattle Public Utilities;
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Pursuant to the provisions of RCW 35.94.040 and after public hearing, the property rights described in the Deck Easement attached hereto as Attachment 1 and depicted in the map attached hereto as Attachment 2 are hereby found and declared to be surplus and no longer necessary for Seattle Public Utilities' provision of municipal utility service.



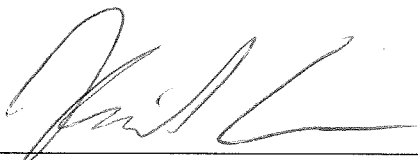
1 Section 2. The Director of Seattle Public Utilities is hereby authorized to execute and
2 record the Deck Easement substantially in the form attached hereto and identified as Deck
3 Easement ("Deck Easement" – Attachment 1).

4 Section 3. In consideration of the grant of easement rights hereby authorized, Gary G.
5 St. Arnaud and Ginger L. Marshall will pay \$1,340.79 to Seattle Public Utilities and such funds
6 shall be deposited into the Drainage and Wastewater Fund.
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Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.


Passed by the City Council the 13th day of June, 2011, and signed by me in open session in authentication of its passage this 13th day of June, 2011.


President _____ of the City Council

Approved by me this 17th day of June, 2011.


Michael McGinn, Mayor

Filed by me this 20th day of June, 2011.


Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1 – Deck Easement
Attachment 2 – Map of Deck Easement

ATTACHMENT 1

Recording Requested By And
When Recorded Mail To:

Seattle City of
SPU/Real Prop – DWU
Box Office 34018
Seattle, WA 98124-4018

DECK EASEMENT

Reference # of Documents Released or Assigned: 20080617001483
Grantor: The City of Seattle, acting by and through Seattle
Public Utilities
Grantee: Gary G. St. Arnaud and Ginger L. Marshall
Legal Description (abbreviated): Portion of Lot B City of Seattle Short Plat No 81-230-
0270
Assessor's Tax Parcel ID#: 022303-9328

R/W # 2008-012-002

THIS EASEMENT AGREEMENT granted this _____ day of _____, 2011, by and between **THE CITY OF SEATTLE**, a municipal corporation of the State of Washington, acting by and through Seattle Public Utilities ("City" or "Grantor"), to **Gary G. St. Arnaud and Ginger L. Marshall**, husband and wife, (the "Grantees").

WITNESSETH: Said Grantor for and in consideration of the sum of One Thousand Three Hundred Forty dollars and 79/100 (\$1,340.79) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, grants and conveys to the Grantee, a non-exclusive easement for an existing deck with necessary appurtenances ("Deck") over and across the following described property in Seattle, King County, Washington:

Portion of Lot B, City of Seattle Short Plat Number 81-230-0270, recorded under recording number 8309120907, (Lot B being a portion of Tracts 1 and 2, Westwood by the Sound, according to the plat thereof recorded in Volume 27 of Plats, Page 38, in King County, Washington, and a portion of the south 75 Feet of Government Lot 3, Section 2, Township 23 North, Range 3 East, Willamette Meridian, in King County, Washington).

Said portion of Lot B being that wedge-shaped portion southeast of a line twenty (20) feet southeast of and parallel to a base line beginning at the southwestern and southern-most corner of Lot B and continuing N 60° 00' 00" E along the southeastern boundary of Lot B and the extension thereof to southwesterly border of 47th Avenue SW.

Containing 347 square feet, more or less.

(the "Easement Area")

Attachment 1 to SPU Marshal Property ORD



ATTACHMENT 1

This easement shall include only such rights in the land above described as the Grantor possesses and that are necessary for the maintenance and repair of the existing elevated deck and retaining wall. Grantees, or their successors or assigns, may not landscape, plant vegetation, reconstruct the deck, or change the land, deck or retaining wall in any way without prior written permission by the Grantor, or its successors or assigns. Any permission granted by Grantor must be recorded with King County. Such permission shall not be unreasonably withheld.

Grantee understands and agrees that no other structures shall be permitted in the Easement Area and that this Easement Agreement is subject to and subordinate to that certain Easement granted to the Washington Natural Gas Company, dated December 11, 1987 and recorded under King County Recording No. 8801040475 ("WNG Easement"). Grantee acknowledges and understands that Washington Natural Gas Company, by and through its successor, Puget Sound Energy, has certain rights within a portion of the Easement Area that prevents any structures from being built. Grantee understands and acknowledges Grantor makes no promises, either express or implied, regarding the compliance of the deck structure with the WNG Easement and the rights of Grantee to keep and maintain such structure, in its present condition or otherwise with respect to Puget Sound Energy as the successor to Washington Natural Gas Company.

The Grantees shall have the right without prior institution of any suit or proceeding at law, at such time as may be necessary, to enter upon the Easement Area for the purposes herein described, without incurring any legal obligation or liability therefore.

The Grantor shall have the right without prior institution of any suit or proceeding at law, at such time as may be necessary, to enter upon the Easement Area without incurring any legal obligation or liability therefore.

The Grantees acknowledge that the City presently has an 18" stormwater mainline and an 8" sanitary sewer within or in the vicinity of the Easement Area.

The Grantor shall at all times have free access to the Easement Area for the operation, maintenance, replacement and repair of its stormwater mainline and sanitary sewer. In the event that the Deck is destroyed or damaged during such operation, maintenance, replacement or repair, the Grantees shall not be entitled to payment for damages to the Deck or for the loss of use of the Deck.

This non-exclusive easement does not supersede the easement rights granted to other parties nor shall it interfere with the City's or other party's facilities in City property.

Grantee shall protect, defend, indemnify and hold harmless Grantor, its officials, employees, agents and successors from any and all costs (including attorneys' fees and costs), claims, demands, judgments, damages, or liability of any kind, including personal injury or damages to property, which arise out of, or in any way results from, or are connected to, or due to any negligent acts, omissions or willful misconduct, or any breach of this Easement Agreement by Grantee in Grantee's use of the deck structure, or exercise of any rights granted herein under this Easement Agreement; provided, however, that Grantee shall not be liable to Grantor for any loss, damage or liability resulting from the sole negligence or willful act or omission of Grantor(s), its heirs, legal representatives, successors or assigns, or the concurrent negligence of Grantor(s), its heirs, legal representatives, successors or assigns to the extent of such concurrent negligence.



ATTACHMENT 1

The covenants herein contained shall run with the land and shall be binding on the parties, their successors and assigns forever.

Ray Hoffman
Director, Seattle Public Utilities

Date: _____

STATE OF _____)
COUNTY OF _____) ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2011.

Name (Print) _____
NOTARY PUBLIC in and for the State of _____
residing at _____
My appointment expires _____

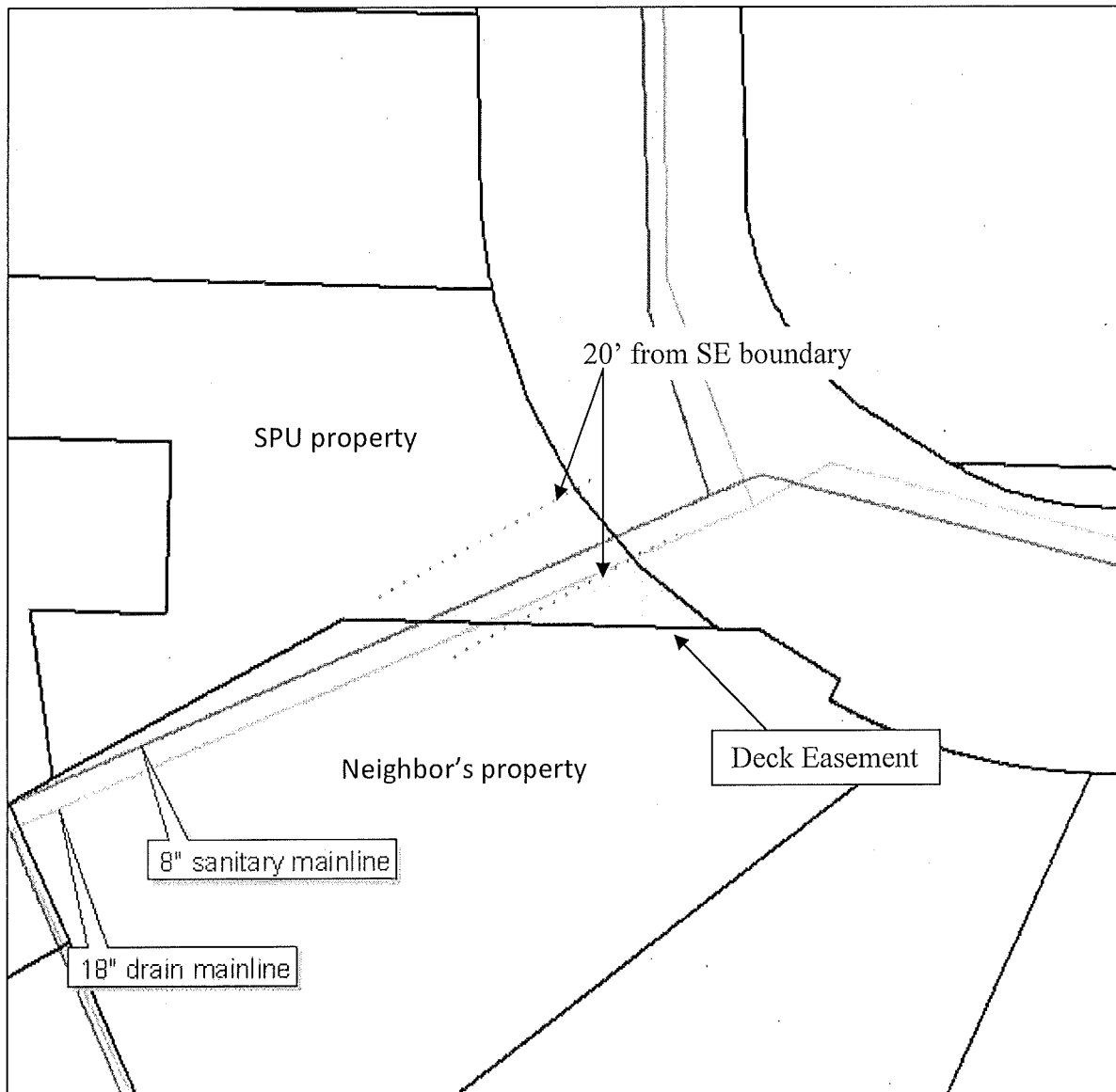
(SEAL)

Attachment 1 to SPU Marshal Property ORD



ATTACHMENT 2

Map of Deck Easement



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Judith Cross / 386-1814	Karen Grove/ 684-5805

Legislation Title:

AN ORDINANCE relating to Seattle Public Utilities; declaring as surplus certain property rights in Seattle Public Utilities property in the 10300 block of 47th Avenue Southwest in Seattle, Washington; and authorizing the Director of Seattle Public Utilities to execute and convey an easement for such surplus property rights to Gary G. St. Arnaud and Ginger L. Marshall.

Summary of the Legislation:

This legislation declares as surplus to the City's needs an easement for a deck on City property managed by SPU and authorizes the Director of Seattle Public Utilities to grant an easement for the deck to Gary G. St. Arnaud and Ginger L. Marshall in exchange for \$1,340.

Background:

The City in 1987 purchased a 9,650 square foot property south of the Fauntleroy Ferry Terminal for slope stabilization and to repair sewer lines damaged in a landslide. A private deck built between 1999 and 2005 without City permission or knowledge encroaches on approximately 350 square feet of the lot. A buyer considering purchasing the property brought this deck encroachment to SPU's attention in 2008. After the party bought the home, SPU granted the owner a permit for the deck.

The current property owners asked to purchase fee title to the City property under their deck to clear the encroachment. However, SPU has an 18" storm drain and an 8" sanitary sewer line near the deck. In lieu of fee title to the property, SPU engineers are recommending the utility grant an easement for the deck, allowing SPU to retain its rights to protect utility infrastructure. This non-exclusive deck easement would give the grantees the right only to maintain and repair the deck. They may not landscape, plant vegetation, reconstruct the deck, or change the land, deck or retaining wall without prior written permission from SPU.

Please check one of the following:

☐ **This legislation does not have any financial implications.**

(Stop here and delete the remainder of this document prior to saving and printing.)

☒ **This legislation has financial implications.** (Please complete all relevant sections that follow.)

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2011 Revenue	2012 Revenue
Drainage and Wastewater Fund – 44010	SPU	Other Non-Operating Revenue	\$1,340.79	
TOTAL			\$1,340.79	

Revenue/Reimbursement Notes:

These revenues would be derived from the sale of the easement.

What is the financial cost of not implementing the legislation?

Sale of easement would not proceed and the encroachment would not be cleared.

Does this legislation affect any departments besides the originating department?

No.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

A long-term permit would achieve the same end. However, a long-term permit would similarly require an ordinance.

Is the legislation subject to public hearing requirements?

Yes. Pursuant to RCW 35.94.040, a public hearing will be held by the Council's Seattle Public Utilities and Neighborhoods Committee.

Other Issues:

None

List attachments to the fiscal note below:

N/A



City of Seattle
Office of the Mayor

May 10, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that would grant an easement for a deck that encroaches onto City property. The easement provides protections for Seattle Public Utilities' sewer and drainage infrastructure while giving the homeowners legal authority to maintain the structure.

The encroaching deck was built without City permission or knowledge many years ago. The current property owners brought this encroachment to the City's attention before purchasing the property. Seattle Public Utilities staff reviewed the situation and found the deck does not pose a hazard to City infrastructure. The City's Real Estate Oversight Committee recommends the property be sold. During negotiations with the deck owners, both parties agreed an easement would be the most cost-effective means to protect City infrastructure while providing the home owners a legal right to keep their deck where it is.

The sale of this easement will protect City infrastructure, remove an encroachment, and allow citizens the use of their deck. Thank you for your consideration of this legislation. Should you have questions, please contact Pree Carpenter at 386-9754.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

273079
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123621-123631 TITLE

was published on

06/28/11

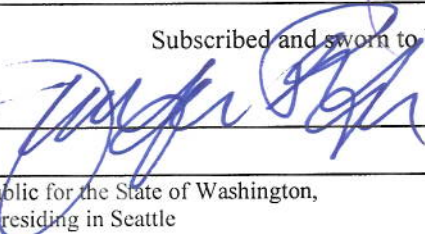
The amount of the fee charged for the foregoing publication is the sum of \$ 143.33, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on

06/28/11


Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on June 13, 2011, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123621

AN ORDINANCE affecting the date on which permit applications are required to comply with the 2009 Seattle Mechanical, Fuel Gas, Existing Building, Residential and Building codes; amending Ordinance 123379, Ordinance 123380, Ordinance 123381, Ordinance 123383, and Ordinance

123384; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123622

AN ORDINANCE establishing an Audit Committee to give guidance to, and be a resource for, the City Auditor; stating the committee's purpose and duties, and establishing its membership; enacting new Sections 3.40.100, 3.40.110, and 3.40.120 of the Seattle Municipal Code; and providing that the Audit Committee shall terminate automatically unless provided otherwise by ordinance.

ORDINANCE NO. 123623

AN ORDINANCE relating to historic preservation, imposing controls upon the Hat 'n' Boots, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

ORDINANCE NO. 123624

AN ORDINANCE relating to historic preservation, imposing controls upon the Dakota Place Park (formerly California Avenue Substation), a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

ORDINANCE NO. 123625

AN ORDINANCE relating to historic preservation, imposing controls upon the Ankeny/Gowey House, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

ORDINANCE NO. 123626

AN ORDINANCE relating to City employment, adopting a 2011 Citywide Position List.

ORDINANCE NO. 123627

AN ORDINANCE relating to the solid waste system of Seattle Public Utilities; expressly exempting residential customers from the prohibition on hauling city waste; establishing a civil infraction for the unauthorized hauling of city waste; and amending Seattle Municipal Code Sections 21.36.030 and 21.36.922 accordingly.

ORDINANCE NO. 123628

AN ORDINANCE relating to Seattle Public Utilities; declaring as surplus certain property rights in Seattle Public Utilities property in the 10300 block of 47th Avenue Southwest in Seattle, Washington; and authorizing the Director of Seattle Public Utilities to execute and convey an easement for such surplus property rights to Gary G. St. Arnaud and Ginger L. Marshall.

ORDINANCE NO. 123629

AN ORDINANCE relating to community tree planting and education programs; removing budget provisos that restrict the expenditure of appropriations in the 2011 Budget for activities that engage the community in the planting and care of trees in Seattle to improve the city's urban forest and creating a new full time employee position in the Seattle Public Utilities Department.

ORDINANCE NO. 123630

AN ORDINANCE relating to the legal representation of Councilmember Richard Conlin in judicial proceedings concerning a recall charge.

ORDINANCE NO. 123631

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Publication ordered by the City Clerk

Date of publication in the Seattle Daily Journal of Commerce, June 28, 2011.

6/28(273079)